

PATENT
Attorney Docket No. 104.0004-03000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Confirmation No.: 3765
David F. Meschan)
Serial No.: 10/735,343) Group Art Unit: 3728
Filed: December 11, 2003)
For: ATHLETIC SHOE WITH IMPROVED)
HEEL STRUCTURE)

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SEP 01 2004

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application.

Copies of the listed documents were previously cited/submitted in a prior application, Serial No. 09/419,641, filed October 18, 1999, now U.S. Patent No. 6,662,471; Serial No. 09/149,142, filed September 8, 1998, now U.S. Patent No. 5,970,628; and/or Serial No. 08/542,251, filed October 12, 1995, now U.S. Patent No. 5,806,210; upon which applicant relies for the benefits provided in 35 U.S.C. § 120. Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant

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reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 1, 2004

By: 

Thomas H. Martin
Registration No. 34,383

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FORM PTO-1083

Attorney Docket No.: 104.0004-03000
Customer No. 22882

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In re application of:
 David F. Meschan
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Confirmation No.: 3765
 Art Unit: 3728

Mail Stop AMENDMENT
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

No additional fee is required.
 Applicant hereby requests a ***month extension of time to respond to the above office action.
 Information Disclosure Statement with Form PTO-1449 is enclosed.

The fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA.*	LG/SM \$ ENTITY FEE		ADD'L FEE DUE
TOTAL CLAIMS FEE	124	-	59	--	85	LG=\$18 SM=\$9	\$18
INDEPENDENT CLAIMS FEE	2	-	3	***	0	LG=\$86 SM=\$43	\$86
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					LARGE ENTITY FEE = \$290 SMALL ENTITY FEE = \$145		\$ 0
					TOTAL		\$ 1,170.00

- If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
- If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

An additional claims fee in the amount of \$1,170.00 is to be charged to Deposit Account No. 50-1068.
 The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1068. A copy of this sheet is enclosed.

Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
 Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
 MARTIN & FERRARO, LLP

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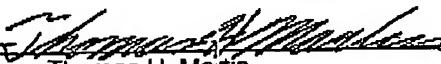
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FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS						LARGE ENTITY FEE = \$280 SMALL ENTITY FEE = \$145	\$ 0
						TOTAL	\$ 1,170.00

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
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OMB 0651-0031

Substitute for FORM PTO-1449		Attorney Docket Number: 104.0004-04000	Customer No. 22882	
INFORMATION DISCLOSURE CITATION IN AN APPLICATION		Applicant David F. Meschan	Application Number 10/735,343	
(Use several sheets if necessary) Sheet 1 of 6		Filing Date December 11, 2003	Group Art Unit (3728)	Examiner (J. Kavanaugh)

U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	6,568,102	05/2003	Healy et al.			
	5,970,628	10/1999	Meschan			
	5,829,172	11/1998	Kaneko			
	5,806,210	09/1998	Meschan			
	5,722,186	03/1998	Brown			
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	5,426,184	06/1995	Lyden et al.			
	5,402,588	04/1995	Graham et al.			
	5,381,808	01/1995	Claveria			
	5,367,792	11/1994	Richard et al.			
	5,353,523	10/1994	Kilgore et al.			
	5,343,639	09/1994	Kilgore et al.			
	5,325,611	07/1994	Dyer et al.			
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DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)
533 972	03/1922	France			
2 742 138	03/1979	Germany			
2 154 951	05/1973	Germany			
947 054	07/1956	Germany			
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	2 144 024	02/1985	Great Britain			
	1 540 926	02/1979	Great Britain			
	229 884	03/1924	Great Britain			
	63 342	02/1911	Great Britain			
	25 728	11/1909	Great Britain			
	5-18965	05/1993	Japan			Yes
	62-41601	10/1987	Japan			Yes
	62-200904	12/1987	Japan			Partial
	434 029	10/1967	Switzerland			

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

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Etonic Spring Sport Shoe Catalog; page 4; (1993).
Expert Declaration of: Jerry D. Stubblefield dated July 30, 2002.
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AVIA Fall 1991 Footwear Catalog.
Declaration of Takaya Kimura (Civil Action File No. 1:00 CV 00978).
Mizuno 1985 Sports Shoe catalog excerpts (MIZJP 02524-02531).
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Mizuno 1987 Athletic Footwear catalog excerpts (MIZJP 02538-02546).
Mizuno 1988 Athletic Footwear catalog excerpts (MIZJP 02547-02549).
Mizuno 1991 All Line-Up catalog excerpts (MIZJP 02550-02556).
Mizuno 1992 Run-Bird All Line-Up catalog excerpts (MIZJP 02557-02559).
Mizuno 1993 All-Line-Up catalog excerpts (MIZJP 02560-02564).
Runner's World 1989 Spring Shoe Survey (MIZ 135893 – MIZ 135902).
4 photographs of shoes sold in the United States prior to the filing date of the above-referenced application.

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.

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